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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/647,727	08/25/2003	Mark E. Pecen	CS23174RA	2148

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EXAMINER	
CHURNET, DARGAYE H	
ART UNIT	PAPER NUMBER
2619	

NOTIFICATION DATE	DELIVERY MODE
10/07/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No.	Applicant(s)	
	10/647,727	PECEN ET AL.	
	Examiner	Art Unit	
	DARGAYE H. CHURNET	2619	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *12 June 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *2-7,16-18,and 20-23* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *2-6,16-18,20 and 21* is/are rejected.

7)☒ Claim(s) *7,22, and 23* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *25 August 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Detailed Action

Claim Rejections - 35 USC § 103

1. The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 2, 5, 6, 16, 20, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dalsgaard et al. (cited 6,546,251) hereinafter referred to as Dalsgaard in view of McCormick et al. (cited 6,169,894) hereinafter referred to as McCormick.

For claim 2, Dalsgaard et al. disclose a method of cell reselection by a mobile station communicating with a serving cell comprising: receiving from the serving cell an information element having an indicator corresponding to the routing area of each of a set of neighbor cells (see col. 6, lines 47-52, wherein the mobile station receives information about the location area or neighboring cells); comparing a neighbor cell routing area to the serving cell routing area (see col. 6, lines 47-52, wherein the neighbor cells location area is compared with the current location area); and executing a reselection decision in response to comparing the neighbor cell routing area to the serving cell routing area (see col. 6, lines 59-65, wherein the mobile stations reselects a neighboring cell as the serving cell). Dalsgaard fails to disclose executing a reselection decision includes maintaining connection to said serving cell if said neighbor cell routing area is different from said serving cell routing area. McCormick from the same or similar fields of endeavor teaches executing a reselection decision includes maintaining connection to said serving cell if said neighbor cell routing area is different from said serving cell routing area (see col. 8, lines 41-46, wherein the serving cell maintains connection regardless of the handovers being performed). Thus, it would have been

obvious to the person of ordinary skill in the art at the time of the invention to incorporate the elements above stated by McCormick in the network of Dalsgaard. The method taught by McCormick is modified/implemented into the network of Dalsgaard by maintaining connection to the serving cell for the duration of the session. The motivation for executing a reselection decision including maintaining connection to said serving cell if said neighbor cell routing area is different from said serving cell routing area is that both Dalsgaard and McCormick teach cell reselection within routing areas and between routing areas, and the connection to the serving cell can be maintained in Dalsgaard as taught by McCormick as a backup in case the target cell connection fails. Claim 20 is rejected for similar reasons.

For claim 16, Dalsgaard et al. disclose a method of cell reselection by a mobile station communicating with a serving cell comprising: receiving from said serving cell, a radio link budget criteria for packet transfer mode operation (see fig. 7, block 70, wherein the mobile station receives information from the serving cell to determine if cell reselection is necessary, which would inherently include radio link budget criteria); determining whether said radio link budget criteria is acceptable for said serving cell (see fig. 7, block 71, wherein the mobile station determines if the current service can be supported by the serving cell); and executing a reselection decision in response to determining whether said radio link budget criteria is acceptable for said serving cell (see fig. 7, blocks 72 and 73, wherein the mobile station performs cell reselection if the service level is not acceptable in the serving cell). Dalsgaard fails to disclose executing

a reselection decision includes maintaining connection to said serving cell if said criteria is acceptable. McCormick from the same or similar fields of endeavor teaches executing a reselection decision includes maintaining connection to said serving cell if said neighbor cell routing area is different from said serving cell routing area (see col. 8, lines 41-46, wherein the serving cell maintains connection regardless of the handovers being performed). Thus, it would have been obvious to the person of ordinary skill in the art at the time of the invention to incorporate the elements above stated by McCormick in the network of Dalsgaard. The method taught by McCormick is modified/implemented into the network of Dalsgaard by maintaining connection to the serving cell for the duration of the session. The motivation for executing a reselection decision including maintaining connection to said serving cell if said neighbor cell routing area is different from said serving cell routing area is that both Dalsgaard and McCormick teach cell reselection within routing areas and between routing areas, and the connection to the serving cell can be maintained in Dalsgaard as taught by McCormick as a backup in case the target cell connection fails.

For claim 5, Dalsgaard discloses determining whether a radio link budget criteria is acceptable for said serving cell (see col. 6, lines 59-65, wherein radio link budget criteria analyzed include power level of received signals and error rate of decoded signals).

For claim 6, Dalsgaard discloses the information element is transmitted to the mobile station from said serving cell as one of an SI2, SI2bis, SI5, and SI5bis message (see col. 6, lines 42-45, wherein information transmitted to the mobile station is in the form of an SI message). Claim 21 is rejected for similar reasons.

4. Claims 3, 4, 17, and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dalsgaard in view of McCormick, as applied to claim 2 above, and further in view of Bontempi et al. (cited 7,058,042 B2) hereinafter referred to as Bontempi.

For claim 3, Dalsgaard in view of McCormick fail to disclose determining that the mobile station is operating in a packet data transfer mode. Bontempi from the same or similar fields of endeavor teaches determining that the mobile station is operating in a packet data transfer mode (see col. 7, lines 37-40, wherein a mobile station can operate in a packet mode). Thus, it would have been obvious to the person of ordinary skill in the art at the time of the invention to incorporate the elements above stated by Bontempi in the network of Dalsgaard in view of McCormick. The method taught by Bontempi is modified/implemented into the network of Dalsgaard in view of McCormick by providing a packet data transfer mode. The motivation for determining that the mobile station is operating in a packet data transfer mode is to perform the appropriate cell reselection process. Claim 17 is rejected for similar reasons.

For claim 4, Bontempi teaches determining that the mobile station is operating in a push-to-talk mode (see col. 8, lines 38-40, wherein a mobile station can operate in a push-to-talk mode). Claim 18 is rejected for similar reasons.

Allowable Subject Matter

5. Claims 7, 22, and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

6. Applicant's arguments filed with respect to claims 1 and 16 have been fully considered but they are not persuasive. Applicant first argues on page 8 of the Remarks that McCormick does not teach "a method of cell reselection by a mobile device communicating with a serving cell...reselection decision includes maintaining connection to said serving cell" as recited in claim 1. However, as shown in column 8, lines 41-46, McCormick the mobile unit performs hand-offs from cell to cell, reading on "cell reselection by a mobile device communicating with a serving cell", and the first serving cell site ”continues to maintain network connection” during the hand-off, reading on “reselection decision includes maintaining connection to said serving cell”. Therefore claim 1, and similarly claim 20 do not contain allowable subject matter. Applicant also argues on page 9 of the Remarks that Dalsgaard fails to disclose “determining whether said radio link budget criteria is acceptable for said serving cell”. However, as shown in

figure 7 and column 6, lines 59-65, the mobile station determines if radio link budget criteria such as “channel measurement data”, “power level of the signal”, and “error rate” of the serving cell are sufficient of if cell reselection is necessary.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dargaye H. Churnet whose telephone number is 571-270-1417. The examiner can normally be reached on Monday-Friday from 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chau Nguyen can be reached on 571-272-3126. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Dargaye Churnet
Patent Examiner
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/Chirag G Shah/

Supervisory Patent Examiner, Art Unit 2619